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EXAMINER

KRECK, JOHN J

ART UNIT PAPER NUMBER

3673

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*P*

# Office Action Summary

Application No.

10/813,810

Applicant(s)

NICKELSON ET AL.

Examiner

John Kreck

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 12-16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 5, 11 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, and 6-10 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by White (U.S. Patent number 6,427,402) see figure 5.

1. Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Breaux (U.S. Patent number 5,360,293)—see figure 6.

2. Claims 1, 6, 7, and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schlueter (U.S. Patent number 910,421) ---see figure 8.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrow (U.S. Patent number 5,800,096) in view of Breaux (U.S. Patent number 5,360,293).

Barrow teaches a casing section including a hollow elongated body; female interlock structure defining a recess extending parallel to the long axis of the body and including an access slot; and a male interlock structure. Barrow fails to teach the plurality of female interlock structures.

Breaux teaches a similar casing with a plurality of female structures. The plurality clearly provides the advantage of greater strength of the joint. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Barrow casing to have a plurality of female interlock structures as called for in claim 1.

2. Claims 1, 2, 6, 7, 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrow (U.S. Patent number 5,800,096) in view of Schlueter (U.S. Patent number 910,421).

Barrow teaches a casing section including a hollow elongated body; female interlock structure defining a recess extending parallel to the long axis of the body and including an access slot; and a male interlock structure. Barrow fails to teach the plurality of female interlock structures.

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Schlueter teaches a similar casing with a plurality of female structures. The plurality clearly provides the advantage of allowing for multiple wall sections to be joined at a single point. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Barrow casing to have a plurality of female interlock structures as called for in claim 1.

Barrow teaches the T-shaped configuration as called for in claim 2.

Barrow teaches the female interlock structure on the external surface as called for in claim 6.

Barrow teaches the interlock chamber as called for in claim 7

Barrow teaches the sealant as called for in claim 12.

Barrow teaches the grout as called for in claim 13.

Barrow teaches the central tube (114) as called for in claim 14.

Barrow teaches the reactive layer (col. 11, line 15) as called for in claim 15.

With regards to claim 16; Barrow teaches a perforated basket (col. 12, line 36); which is deemed to anticipate the reactive slug as called for in claim 16.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrow and Schlueter as applied to claim 1 above, and further in view of Schmednecht, et al. (U.S. Patent number 5,758,993).

Barrow fails to teach the sharpened edge.

Schmednecht teaches a similar casing with a sharpened edge portion, to assist in driving into the ground (col. 5, line 36)

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Barrow device to have a sharpened edge as called for in claim 3.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrow and Schlueter as applied to claim 1 above, and further in view of Simpson, et al. (U.S. Patent number 5,584,610).

Barrow fails to teach the ceramic, aggregate or polymeric material.

Simpson teaches a similar casing with a polymer material, because it is lightweight and environmentally benign (col. 2, line 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Barrow device to have a polymeric material as called for in claim 4.

5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrow and Schlueter as applied to claim 1 above, and further in view of Bodine. (U.S. Patent number 5,030,034).

Barrow fails to teach the corrosion resistant coating.

Bodine teaches a similar casing with a corrosion resistant coating, to prevent corrosion

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Barrow device to have a corrosion resistant coating as called for in claim 18.

Bodine teaches a polymer (plastic) as called for in claim 19.

***Allowable Subject Matter***

6. Claims 5 , 11, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Kreck  
Examiner  
Art Unit 3673

**JOHN KRECK**  
**PRIMARY EXAMINER**

1 March 2005